

**Introduced by Senator Ortiz**

February 22, 2005

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An act to add Section 4050.1 to the Business and Professions Code, relating to pharmacists.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 644, as introduced, Ortiz. Dispensing of prescriptions.

Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy and makes a violation of those provisions a crime. Existing law prohibits, except as specified, a person other than a pharmacist from dispensing a dangerous drug, as defined, pursuant to a prescription.

This bill would require a pharmacist to dispense a lawful prescription except in specified circumstances, including on ethical, moral, or religious grounds asserted by the pharmacist. The bill would authorize the pharmacist to decline to dispense the prescription on that basis only if his or her employer is able to reasonably accommodate that objection.

Because violation of the bill would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares the following:

(a) Patients should have timely access to medications that are lawfully prescribed for them.

(b) When engaging in the practice of pharmacy, a pharmacist must exercise professional judgment in the best interest of a patient's health and respect a patient's dignity and autonomy and maintain the confidentiality of a patient's medical information.

SEC. 2. Section 4050.1 is added to the Business and Professions Code, to read:

4050.1. Notwithstanding any other provision of law, a pharmacist shall dispense a lawful prescription unless one of the following circumstances exists:

(a) Based on the pharmacist's professional training and judgment, dispensing the prescription is contrary to law or is contraindicated for the patient.

(b) The pharmacy does not have the dangerous drug that was prescribed in its stock. The pharmacist shall immediately notify the patient and promptly transfer the prescription to another pharmacy known to stock the dangerous drug or, upon the patient's request, return the prescription to the patient and refer the patient to a pharmacy known to stock the dangerous drug.

(c) The pharmacist refuses on ethical, moral, or religious grounds to dispense a dangerous drug pursuant to an order or prescription. A pharmacist may decline to dispense a dangerous drug on this basis only after notifying his or her employer, in writing, of the drug or class of drugs to which he or she objects, and the pharmacist's employer can, without creating undue hardship, including undue hardship to the patient, provide a reasonable accommodation of the pharmacist's objection by establishing protocols that ensure that the patient has timely access to the prescribed dangerous drug despite the pharmacist's refusal to dispense the prescription. For purposes of this subdivision, "reasonable accommodation" and "undue hardship" shall have the same meaning as applied to those terms pursuant to subdivision (j) of Section 12940 of the Government Code, and "dangerous drug" includes the drug therapy described in paragraph (8) of subdivision (a) of Section 4052.

1 SEC. 3. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the  
6 penalty for a crime or infraction, within the meaning of Section  
7 17556 of the Government Code, or changes the definition of a  
8 crime within the meaning of Section 6 of Article XIII B of the  
9 California Constitution.

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